

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3779 of 1990

with

SPECIAL CIVIL APPLICATION No 3780 of 1990

with

SPECIAL CIVIL APPLICATION NO. 3781 OF 1990

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

VASANTLAL PADMSINH JAIN

Versus

STATE OF GUJARAT

Appearance:

MR SH SANJANWALA for Petitioner

Ld. AGP Mr.H.L.Jani, for Respondent No. 1

NOTICE SERVED for Respondent No. 2, 3, 4, 5

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI

Date of decision: 30/06/2000

ORAL JUDGEMENT

This is a common order passed in this Special Civil Application No. 3779 of 1990 and the connected Special Civil Applications No.3780 and 3781 of 1990. By this petition under Article 227 of the Constitution of India, the petitioner seeks quashing of the order dated 18.9.89 (Annexure C) passed by the Special Secretary, Revenue Department of State of Gujarat confirming the orders of the Collector, Valsad (Annexure B) dated 26.8.1988 and the order of the Deputy Collector Valsad (Annexure A) dated 15.6.1987. By the aforesaid impugned orders, the entry in the record of rights of being tenant in favour of the petitioner has been set aside. By the impugned order, not only that the entry in favour of the petitioner is set aside but it has also been declared that all the sale transaction under which he acquired the land would also stand annulled.

2. Ld. Counsel points out that the Revenue Authorities totally ignored the fact that on the question of status of the petitioner as tenant under the Bombay Land Revenue Code the matter was already pending before the Revenue Tribunal in which an order of stay was in operation in favour of the petitioner. The subsequent events mentioned in the petition are that the Revenue Tribunal remanded the matter to the Mamlatdar and the Mamlatdar passed order in favour of the petitioner recognising him as the tenant of the land. The petitioner in the meantime had already purchased the land. These subsequent events mentioned in the petition have not been controverted by any reply affidavit on behalf of the State although the petition is pending since the year 1990. The fact is clear that the order of the Deputy Collector of not recognising the petitioner as tenant has been set aside by the order of the Revenue Tribunal and those orders are on record.

3. In view of the subsequent events, the 3 impugned orders of the Revenue Authorities cannot be allowed to stand to create a cloud on the title and possession of the petitioners on the land in question. Consequently the petitions succeed and are hereby allowed. The impugned orders at Annexure A, B & C dated 15.6.1987, 26.8.1988, 18.9.1989 respectively passed by the Deputy Collector, Valsad, Collector, Valsad and the Special Secretary of the Revenue Department of the State of Gujarat are all set aside. Rule made absolute. No orders as to costs.

(D.M.Dharamadhikari, CJ)

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